

MONTGOMERY COUNTY DEPARTMENT OF POLICE



INTERNAL AFFAIRS DIVISION ANNUAL REPORT 2019

DIRECTOR'S MESSAGE

The Montgomery County Police Department (MCPD) is providing this Internal Affairs Division Annual Report for 2019 as part of its ongoing commitment to building trust through community engagement, communication, transparency, and accountability. MCPD's Internal Affairs Division (IAD) has published this annual report in an effort to be as transparent as possible. Ethical conduct is an organizational responsibility. MCPD is committed to providing the highest level of professional service and public safety to all county residents and visitors. Internal Affairs serves two communities, the public and law enforcement.



The overwhelming majority of Montgomery County Police employees conduct their daily activities with professionalism and within departmental policy.

Employees that are accused of misconduct may become subject to a fair fact-finding process to ensure the rights of all are protected. The Internal Affairs Division understands and acknowledges challenges related to the reporting of police misconduct by external and internal complainants. IAD is committed to thoroughly reviewing complaints and assigning cases to the appropriate investigative process. Additionally, IAD will ensure that communication is open and complete with complainants as allowed by the Law Enforcement Officers Bill of Rights and Collective Bargaining Agreements. Internal Affairs will continue to process concerns/complaints without regard to who the involved, complainant or employee is. IAD investigates all complaints without consideration of race, color, creed, religious beliefs, sexual identification, or immigration status. We believe that treating all individuals equally fosters and cultivates trust in the community, which is a fundamental principle of MCPD's community policing philosophy.

Captain William Montgomery

Director, Internal Affairs Division

THE INTERNAL AFFAIRS PROCESS

The Montgomery County Department of Police recognizes the importance of establishing and implementing complaint and discipline procedures in order to monitor the conduct of its employees, and promptly address issues that are identified that may negatively impact trust and confidence in the department by employees and the public. A critical part of maintaining this level of trust and confidence is through an effective and sound investigative and disciplinary process.

The Internal Affairs Division ensures that all complaints, regardless of their source, are thoroughly reviewed and investigated and that corrective action is taken for any improper conduct. The IAD also ensures that employees are protected from unwarranted criticism for properly engaging in their duties. The Director of IAD reports directly to the Chief of Police and IAD investigators have full authority to investigate alleged violations without interference from any member of the department.

The department's IAD plays a critical role by helping to prevent misconduct, properly addressing misconduct when it occurs, helping to build and maintain the highest levels of community trust and confidence, and maintaining an ethical work environment based on integrity and honesty. Throughout 2019, the IAD Director provided weekly updates on existing cases to the Chief and Assistant Chiefs, as well as briefings on any issues, trends and new complaints.

The Department accepts complaints via e-mail, in person, by telephone, or in written form in order to ensure that the community is comfortable and able to voice their concerns. Anonymous complaints are also accepted. The Departmental Complaint Form (MCP 580) continues to be made available in six different languages at all District police stations and the Executive Office Building (EOB) located in downtown Rockville. In addition, the complaint form can also be downloaded and printed from the department's webpage at <https://www.montgomerycountymd.gov/pol/chief/iad/index.html>. All complaints are to be received courteously by any Departmental employee.

Each complaint is personally reviewed by the IAD Director and Deputy Director in order to differentiate between allegations of serious and minor misconduct. The minor allegations (*intakes*) are customarily sent to the Division Director or District executive staff of the involved officer/employee. If an intake investigation results in a *sustained* violation, corrective action is normally taken through non-disciplinary counseling. Traffic offenses, lack of courtesy, and poor performance are typical examples of these types of offenses. IAD investigators handle the more serious allegations or multiple minor offenses (*formals*), which can result in progressive discipline ranging from oral admonishment up to and including dismissal from the Department. Excessive uses of force, discrimination, theft, etc., are examples of serious allegations.

Internal investigations into allegations of police officer misconduct that can lead to disciplinary action, demotion, or dismissal, must be conducted in accordance with state law and the Law Enforcement Officer's Bill of Rights (LEOBR), *Sections 3-101 through 3-112* of the Public Safety Article, Annotated Code of Maryland. The LEOBR applies only to sworn agency personnel (police officers). Internal discipline is separate from punishment that a police officer may face as a result of a criminal charge. When an Internal Affairs investigation results in a finding that an officer engaged in misconduct by violating a law or a MCPD rule, policy, or procedure, that officer is subject to discipline. IAD also conducts formal investigations of civilian employees, who are not covered by the LEOBR.

Each sustained formal allegation is reviewed by the Internal Investigative Review Panel (IIRP), which consists of the Assistant Chiefs, the IAD Director, and the Commander/Director of the District or Division of the involved employee.

The IIRP ultimately determines which allegations remain sustained and makes disciplinary

recommendations which are then forwarded to the Chief of Police for action. The ultimate authority for disciplinary action involving sworn and civilian personnel of the Department rests with the Chief of Police. The Chief may increase, decrease, or concur with the IIRP's disciplinary recommendation(s). Employees may accept the recommended discipline or appeal the decision of the Chief of Police.

The Fraternal Order of Police (FOP) *Collective Bargaining Agreement* (CBA) and the LEOBR permits officers to appeal discipline issued by the Chief of Police via a hearing board process. Civilian disciplinary actions are appealed through procedures established via collective bargaining and the Office of Human Resources. In 2009, the Maryland Court of Special Appeals ruled in favor of the County as to the use of summary punishment under *Section 3-111* of the *Public Safety Article*.

Summary punishment may be imposed for minor violations of law enforcement agency rules and regulations if the facts that constitute the violation are not in dispute; the law enforcement officer waives a hearing; and the law enforcement officer accepts the punishment imposed by the highest ranking law enforcement officer, or individual acting in that capacity, of the unit to which the law enforcement officer is assigned. Summary punishment imposed under *Section 3-111* may not exceed suspension of three days without pay or a fine of \$150. The majority of summary punishment offers made to resolve disciplinary cases involving sworn personnel are accepted by employees. The full implementation of summary punishment has allowed officers the ability to accept disciplinary offers provided the officer does not dispute the facts of the case at the time of the offer. This has helped to significantly reduce the total time between the initiation of a case and case completion.

A police officer can request to be heard before an Administrative Hearing Board if he/she disputes the findings of a MCPD internal affairs investigation and/or the recommended discipline. In accordance with the Annotated Code of Maryland, Public Safety Article, *Section 3-107 (e)(1)(ii)*, "the [Administrative] hearing shall be open to the public, unless the Chief finds a hearing must be closed for good cause, including protecting a confidential informant, an undercover officer, or a child witness." If a hearing board is scheduled, information regarding the date and time will be posted on the IAD website-<https://www.montgomerycountymd.gov/pol/chief/iad/hearingboardschedule.html>. It should be noted that officers have the right to settle their case prior to the start of any hearing board. Therefore, please contact the Internal Affairs Division at 240-773-6000 or check the website the morning of a scheduled hearing board to confirm that the hearing board will take place. All hearing boards will be held at the Montgomery County Public Safety Headquarters facility located at 100 Edison Park Drive in Gaithersburg, Maryland, 20878. All visitors must pass through a security screening process upon entry to the building.

OVERVIEW

The data outlined in this report shows the following outcomes for 2019:

- ❖ IAD received 9.76 percent more complaints compared to 2018.
- ❖ IAD received 270 complaints and opened 212 cases. Of the 212 cases, 70 formal investigations were initiated.
- ❖ Of the 70 formal investigations initiated, 23 percent were closed within an average of 287 days.
- ❖ *Intake* investigations increased 13 percent and *formal* investigations increased 1 percent from 2018.
- ❖ *Intake* investigations comprised 74 percent of all cases, and *formal* investigations comprised the remaining 26 percent.

- ❖ There were 58 complaints declined by IAD due to insufficient information or other reasons.
- ❖ 91 percent of the personnel who were the subject of complaints were *sworn* officers, and 9 percent were *civilian* personnel.
- ❖ *Neglect of Duty/Unsatisfactory Performance* was the most common allegation and responsible for 34 percent of the allegations made against department employees, followed by *Conformance to Law* (27 percent), and *Courtesy* (11 percent). Overall, these three complaint types were responsible for 72 percent of the allegation made against department employees.
- ❖ There were 148 cases involving multiple allegations, and 46 officers that had more than one case initiated against them. There were 26 cases in which the complaint did not provide enough information to identify a specific employee. Overall, there were 336 known employees who were the subject of an allegation.
- ❖ 79 percent of the allegations received involved employees assigned to the Patrol Services Bureau (PSB).
- ❖ 73 percent of the employees investigated by IAD were *Caucasian*, 14 percent were *African American*, 8 percent were *Hispanic*, 4 percent were *Asian*, and the remaining percentage were identified as *Other*.
- ❖ 80 percent of the employees investigated by IAD were *male*, and 20 percent were *female*.
- ❖ 22 percent of the employees investigated by IAD were between the ages of *21 and 29*, 39 percent were in the *30-39* age group, 37 percent were ages *40-59*, and the remaining 2 percent of employees were ages *50 and older*.
- ❖ 31 percent of the employees who were the subject of a complaint served on the department from *1-5* years, 33 percent served on the department from *6 to 15* years, and 33 percent served on the department for *16 years or more*. Employees serving on the department for *less than one year* accounted for the remaining percentage.

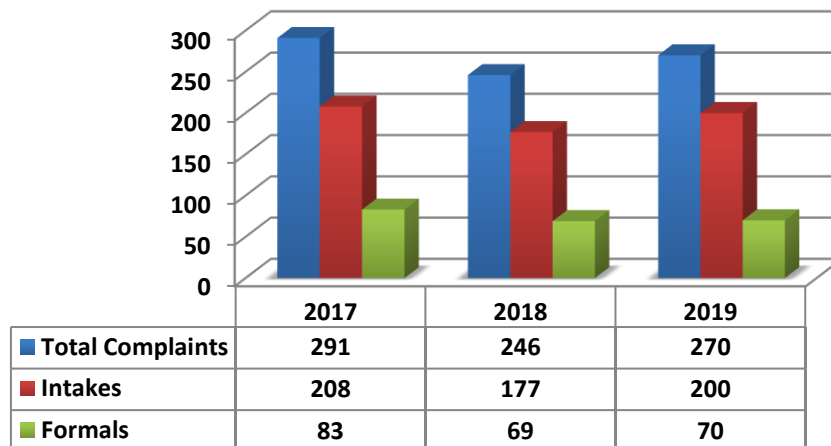
COMPLAINT SUMMARY

In 2019, there were 212 cases opened by the Internal Affairs Division, with a total of 719 allegations recorded. *Intake* investigations made up 72 percent of all IAD cases, while *formal* investigations accounted for 28 percent of cases.

Complaint Types

The following statistics reflect a three-year comparison, as well as an analysis of the complaints received involving both *sworn* and *civilian* personnel.

COMPLAINT SUMMARY

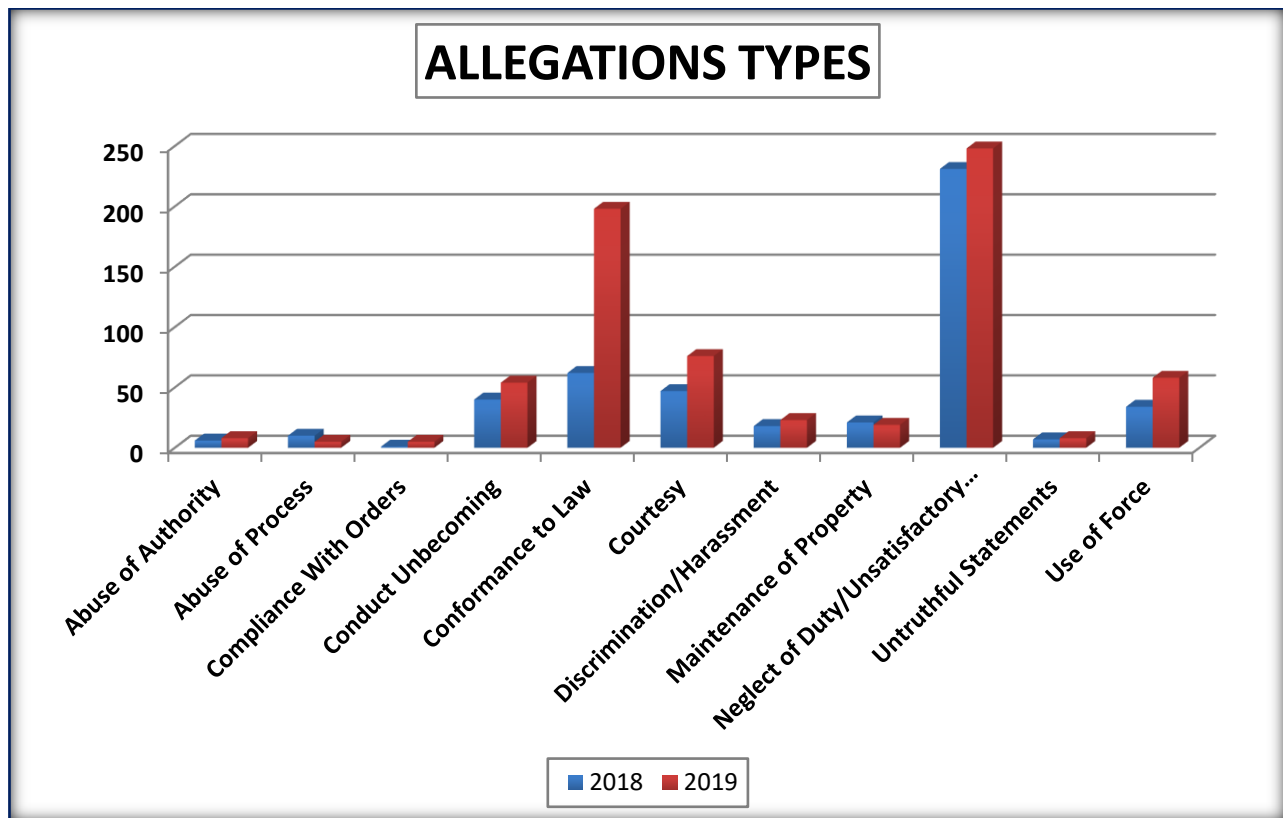


The data reflects a 9.76 percent increase in the number of complaints received in 2019 compared to 2018, and a 7.21 percent decrease since 2017. *Intake* investigations increased from 2018 to 2019 by 13 percent, and *formal* investigations increased by 1 percent.

There were 58 complaints that were declined by IAD in 2019. This occurs when the complaint and preliminary investigation does not result in a determination of the employee's identity, the complaint did not include sufficient information to identify a potential rule violation, it is determined that the subject of the complaint is from another jurisdiction, or body camera video footage clearly establishes that the individual complied with department policy and procedure.

Allegation Types

The chart on the next page summarizes the *types of allegations* received by IAD in 2019.



Note: There may be more than one allegation made against an employee.

In 2019, *Neglect of Duty/Unsatisfactory Performance* was the most common allegation received, which resulted in 34 percent of the allegations made against department employees, followed by *Conformance to Law* (27 percent), and *Courtesy* (11 percent). Overall, these three complaint types were responsible for more than two-thirds (72 percent) of the allegations received in 2019, which is consistent with data from 2018. Examples of these allegations may include employees not following department policies and procedures, traffic violations (*e.g., speeding, parking complaints, and unprofessional demeanor/rudeness when interacting with the public*).

Disposition of Investigations

In 2019, there were 719 allegations of rule violations which resulted in 70 formal investigations. On average, IAD investigators were able to bring approximately 23 percent of the formal investigations to a close within approximately 287 days.

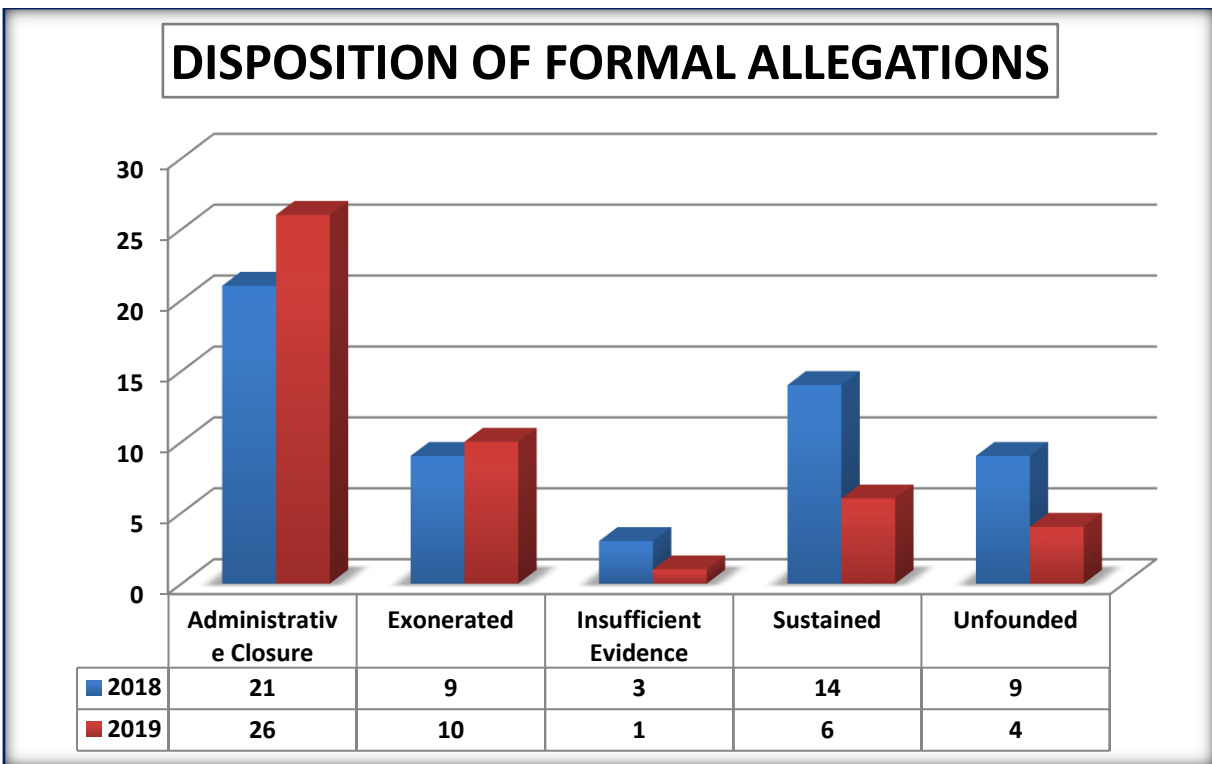
Note: Formal investigations generally tend to take longer than intakes because of the complex nature of the investigations and the laws and procedures governing the employees' rights, including the right to appeal. In many complaints, there are often multiple allegations against one employee, and/or there may be multiple employees named as subjects in one case.

In 2019, there were 148 cases with multiple allegations per case, and 46 employees with multiple cases.

In 2019, there were 70 formals containing 314 allegations involving 90 individual employees, compared to 2018 when there were 69 formals containing 206 allegations involving 82 employees. The data indicates

that both the number of formals as well as the number of allegations contained within those formals increased from 2018 to 2019. The number of allegations per employee also rose from 2.5 in 2018 to 3.5 in 2019.

The chart below provides a summary of the *dispositions* of the IAD formal investigations opened in 2018.



Note: There are 54 (out of 70) formal investigations still open.

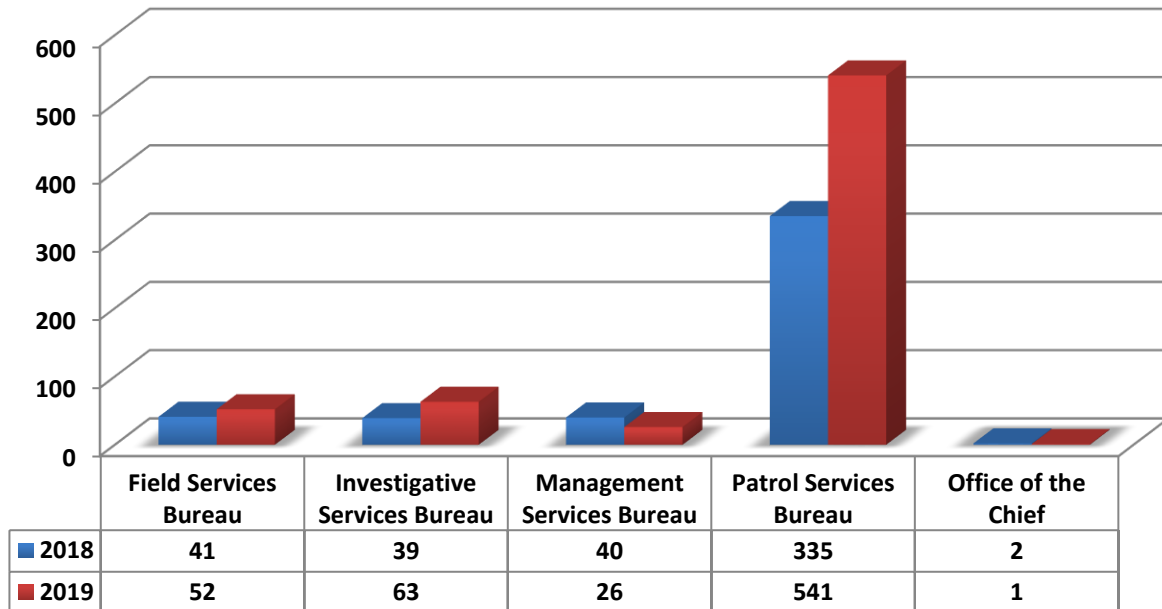
The following is a list of the definitions of each of the dispositions shown above.

- *Administrative Closure:* An administrative conclusion used to terminate an internal investigation which cannot proceed to a normal conclusion (*e.g., because of an uncooperative complainant*).
- *Exonerated:* The incident did occur, but the actions of the involved employee(s) were justified, lawful, and proper.
- *Insufficient Evidence:* The investigation failed to disclose sufficient evidence to prove or disprove the allegation.
- *Sustained:* The investigation disclosed sufficient evidence to prove an allegation of misconduct.
- *Unfounded:* The investigation of the complaint reveals that the acts complained of did not occur.

Allegations by Bureau

The chart on the following page provides a breakdown of the bureaus within the department that employees were assigned to at the time the allegations were made. Each bureau falls under the management of an Assistant Chief of Police.

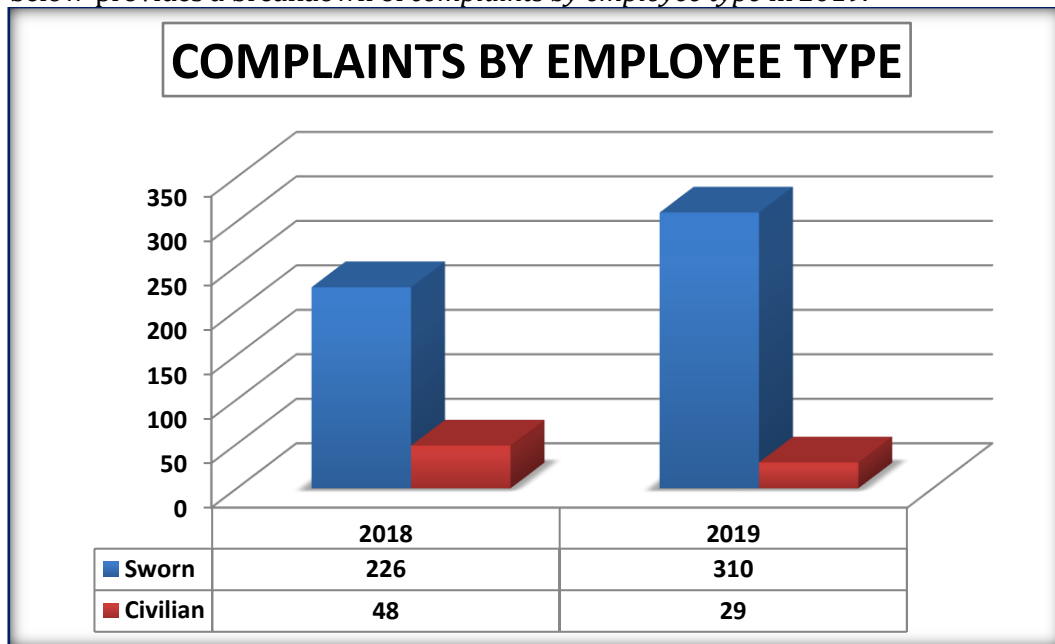
ALLEGATIONS BY BUREAU



The data indicates that 79 percent of the allegations made in 2019 involved employees assigned to the *Patrol Services Bureau* (PSB), compared to 2018 when 68 percent of the allegations received by IAD involved employees assigned to PSB. PSB is the largest bureau in the department and is comprised primarily of sworn officers assigned to the department's six police districts.

Complaints by Employee Type

The chart below provides a breakdown of *complaints by employee type* in 2019.



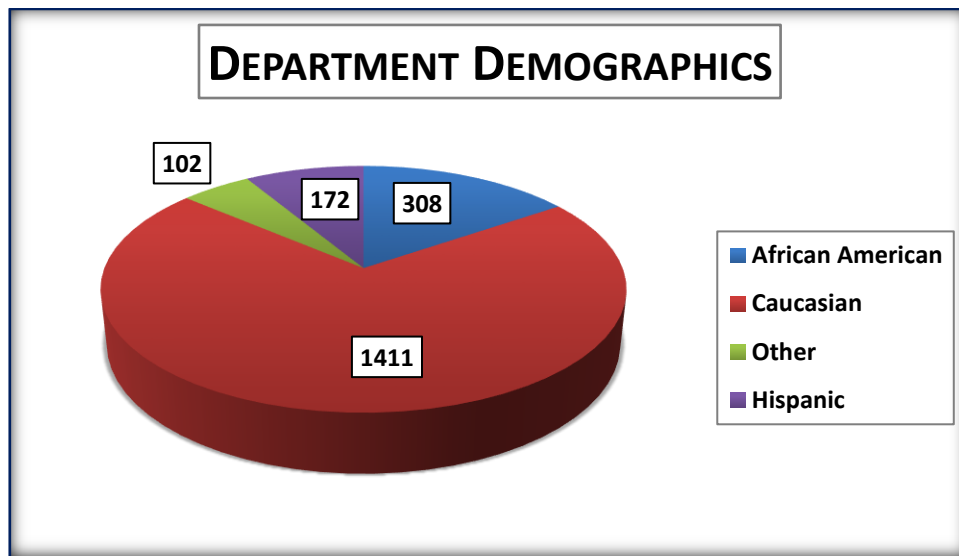
Note: In some instances, there may be more than one employee who was the subject of a complaint. Employees are counted once, even if they are involved in multiple cases.

The data shows that 91 percent of the employees who were the subject of complaints were *sworn* personnel, and 9 percent were *civilian* members of the department.

The following series of charts provide a summary of the *demographics* of the known, unique subjects¹ (i.e., the individual the complaint was made against) of the IAD cases received in 2019. This includes the *race/ethnicity*, *gender*, and *age* of the subjects, as well as the *years of service* with the department at the time the allegation was made based on the available data.

DEMOGRAPHICS

The following chart represents the *department's demographics* as of February 2020.

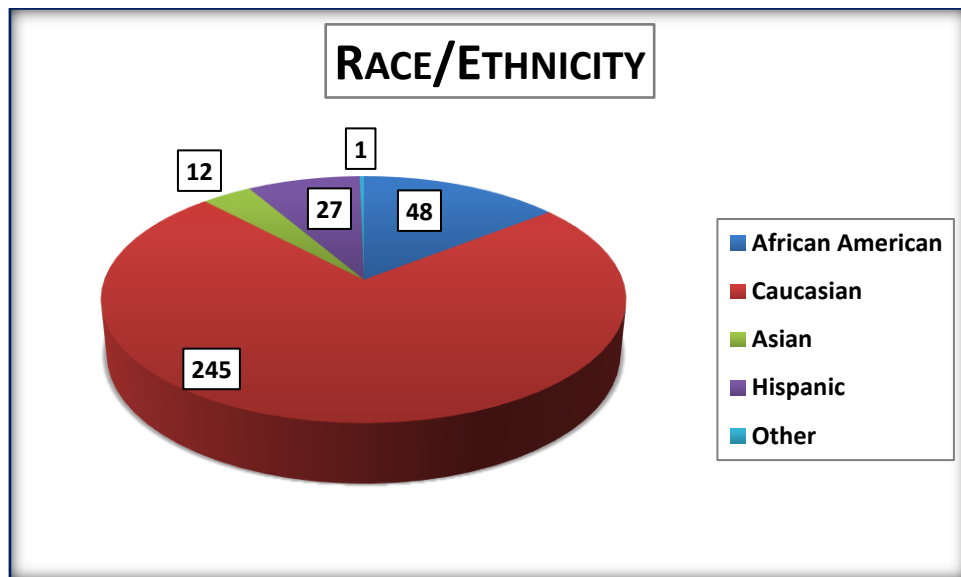


The data shows that approximately 15.5 percent of the department's personnel are *African American*, 70.8 percent are *Caucasian*, 8.6 percent are *Hispanic*, and 5.1 percent are identified as *Other*.¹

Race/Ethnicity

The chart on the next page provides a summary of the *race/ethnicity* of the subjects of the complaints received by IAD in 2019.

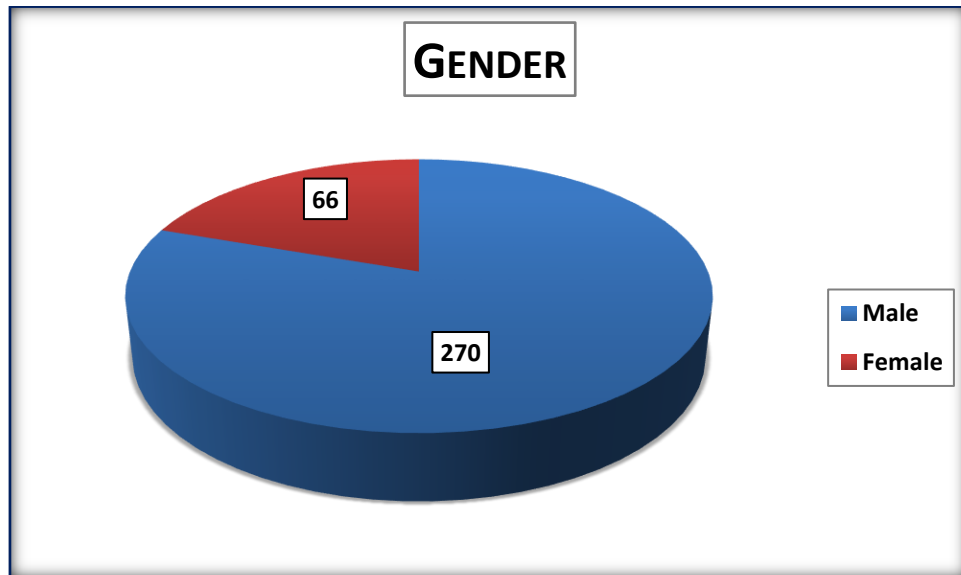
¹ Note: Occasionally, complaints are made against MCPD officers, but the complainant does not have a name and can only provide partial descriptions.



In 2019, 14 percent of the employees investigated by IAD were *African American*, 73 percent were *Caucasian*, 4 percent were *Asian*, 8 percent were *Hispanic*, and the remaining percentage were identified as *Other*. Overall, the percentage of Asian and Hispanic employees investigated by the department has decreased since 2018 (4 percent and 8 percent, respectively).

Gender

The chart below shows the *gender* of the subjects of the complaints received by IAD in 2019.

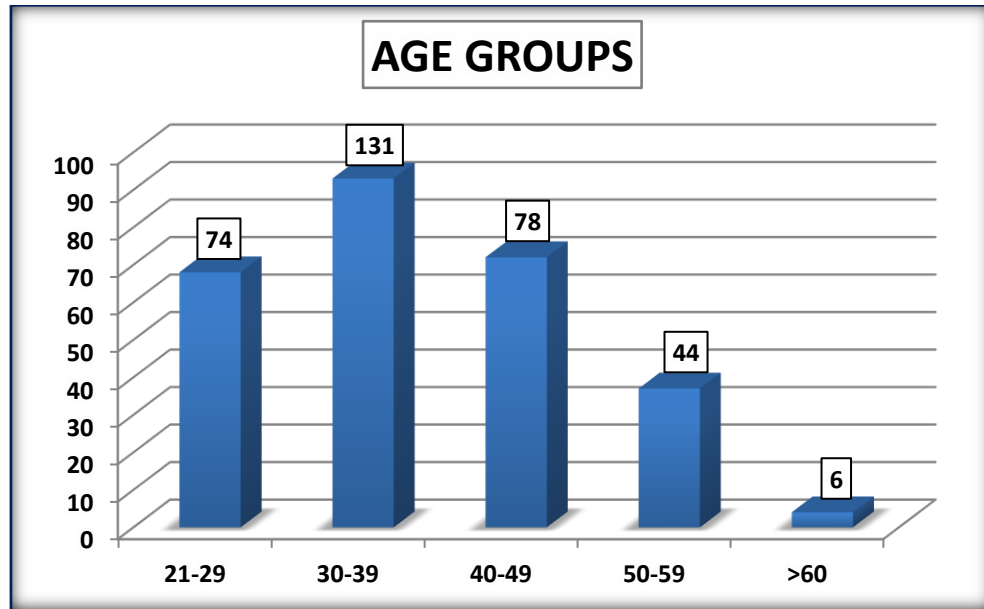


In 2019, 80 percent of the employees investigated by IAD were *male*, and 20 percent were *female*. These numbers are consistent with previous year data.

Age

The chart below provides a summary of the *age groups* of the subjects of the complaints received by IAD

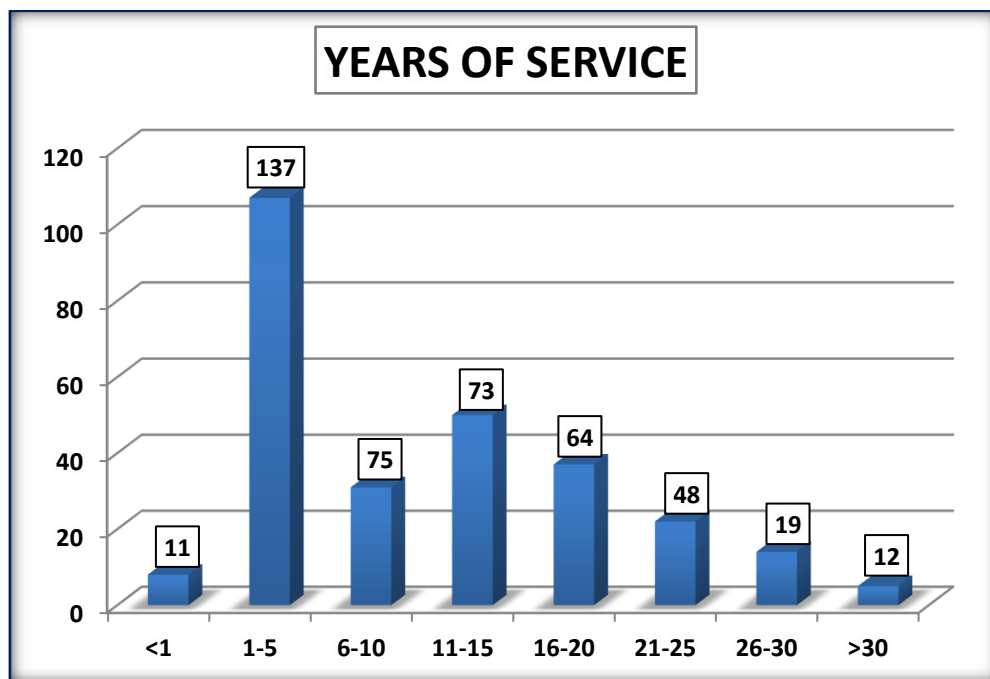
in 2019.



In 2019, 22 percent of the employees investigated by IAD were between the ages of 21 and 29, 39 percent were in the 30-39 age group, 37 percent were ages 40-59, and the remaining 2 percent of employees were ages 50 and older.

Years of Service

The chart below summarizes the *years of service* on the department of the employees investigated by IAD.



In 2019, 31 percent of the employees who were the subject of a complaint served on the department from 1-5 years, 33 percent served on the department from 6-15 years, and 33 percent of employees served on the department for 16 years or more. Employees serving on the department for less than one year accounted for the remaining percentage. In 2018, there were fewer employees in the 1-5 years

category (107), and 8 were employed less than a year.

SUMMARY

In the past, this report was prepared and presented internally to summarize allegations of misconduct made against employees, and used to identify patterns, or any other issues requiring corrective action.

This report is the third to be released to the public and provides context and analysis of the data made available to the public on the *dataMontgomery* website, <https://data.montgomerycountymd.gov/Public-Safety/Internal-Affairs-Allegations/usip-62e2>, and is part of the department's continued commitment to creating and maintaining a culture of transparency and accountability. Openness speaks to the integrity of the police department and builds on the trust and collaboration with our community. This report is also an integral component of the department's responsibilities as a *Commission on Accreditation for Law Enforcement Agencies* (CALEA)-accredited law enforcement agency. MCPD has been a CALEA-accredited law enforcement agency since 1993. The *CALEA Law Enforcement Accreditation Program* is the primary method for an agency to voluntarily demonstrate their commitment to excellence in law enforcement by systematically conducting an ongoing internal review and assessment of the agencies' operations, policies and procedures, and adjust wherever necessary, to meet a body of internationally accepted standards.

In 2019, IAD continued to provide training for entry-level and supervisory classes. Training continues to focus on complaint avoidance through professional service delivery, rather than technical handling of complaints. IAD provided training as part of the in-service supervisory training and covered topics such as how to handle intake complaints and how the formal investigative process works. Training was also provided to residents who attended the citizen academies, community groups and the County Council Public Safety Committee.

The department's *Body Worn Camera* (BWC) program now includes approximately 1,000 officers who are equipped with the technology that helps document interactions between the police and individuals involved in the majority of calls for service. Body cameras have proven helpful in resolving complaints in a timelier fashion and capturing valuable evidence for investigative purposes. The use of this technology has added an additional layer of transparency and accountability to the department's efforts to building trust and improving its standing with the communities it serves throughout the county.

The men and women of the Montgomery County Police Department have dedicated their professional lives to making our community safe. In the performance of their duties, they make contact with hundreds of thousands of people each year. Internal Affairs investigations are designed to protect the public, the department, and employees, and to provide the basis for correcting improper employee behavior and ensuring high standards of professionalism and integrity are maintained. No matter what type of contact you have with a member of the department, you should be treated with courtesy and professionalism -- first and foremost, we are accountable to those we serve.



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DEPARTMENT OF POLICE

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